

BIODIVERSITY CONSERVATION

❖ **What the new High Seas Treaty means for India, and the world**

➤ **CONTEXT:** The international ocean, the last frontier for uncivilised and uncontrolled human behaviour, is on the verge of being tamed. The Biodiversity Beyond National Jurisdiction (BBNJ) treaty, also known as the 'High Seas Treaty', has been accepted in principle.

➤ **But why should we care?**

- Most of the earth's surface is covered by ocean, and two-thirds of the ocean are considered "high seas": areas of the ocean outside the jurisdiction of any country. The high seas are crucial to regulate many environmental processes that make the earth liveable for us. The high seas have also seen some of the worst illegal behaviour, from overfishing to blatant human rights abuses, all while being subject to land-based pollution (e.g. plastics and microplastics) and climate change.
- Having a treaty to regulate all this is much needed, and the new treaty is expected to have the biggest global conservation and regulatory footprint (outside atmospheric and climate treaties).

➤ **Securing 'Blue Economies'**

- A BBNJ treaty could not only have biodiversity impacts but also economic ones.
- ✓ Take the case of high seas around the continent of Africa. Since many African countries lack the capital and technological prowess to have their fishing fleets venture outside their Exclusive Economic Zones (EEZ), European fleets have plundered those international oceans. If these European fleets had been bound by the laws of their home countries, it probably would not make economic sense for them to fish in those waters.

✓ India, with its primarily nearshore fishing fleet, is in a similar technological position to these African nations, especially with respect to Chinese and European fleets outside our EEZ.

- Being able to distribute and regulate our national fishing effort within and outside our EEZ, alongside regulated international fishing effort in the high seas, could give India the sustainable fisheries that could secure our 'Blue Economy'. Doing so would require several steps, starting with tracking the movements of fishing vessels. Although vessel-monitoring systems have been installed in many vessels that travel to the high seas, they are relatively easy to disable, allowing for the illegal movement of vessels as well as illegal operations. Requiring the use of such vessel-monitoring throughout international fishing operations could be a turning point – not only to secure fisheries but also for political stability.

- Currently, when international laws are broken at sea, the consequences vary. Depending on which countries have negotiated treaties with which other individual countries, there may or may not be scope for punitive action.

✓ Consider the case of the Chagos archipelago in the Indian Ocean. It is currently claimed to be a British Indian Ocean Territory (albeit disputed by Mauritius) and its waters have been declared an environment preservation and protection zone. Due to its remote location, fishers have to traverse the high seas to get there. With the small local population (expelled decades ago by the U.K.) and use as a U.S. military base, its local fishing activity is muted. Consequently, the Chagos are an attractive rest stop for fishers, especially from India and Sri Lanka, looking to plunder the high seas.

✓ A recent treaty between the U.K. and Sri Lanka has resulted in greater monitoring and penalties for Sri Lankan boats that fish in those waters, and a resulting decline in Sri Lankan fishing vessels in that region. India has no such treaty; as a result, Indian fishers continue to catch species threatened with extinction, such as sharks, with few consequences.

- A global scale treaty on the movement of fishing vessels through the high seas could have ramifications on such issues because individual countries won't need to negotiate such things on a case-by-case basis.

➤ **Difficult negotiations**

- The BBNJ treaty, however, is not a panacea for these issues. Although negotiations began in 2018 under the United Nations Convention on the Law of the Sea, with the aim of regulating fishing gear and reporting fish-catch data, the final agreed-upon version of the treaty looks quite different. Although the urgency of marine biodiversity loss and marine ecosystem destruction are evident, the negotiations were challenging – including disagreements over the scope of the treaty and the level of protection it should provide.

- Some countries raised concerns about the potential impact of the treaty on their fishing industries, while others called for stronger measures to protect marine biodiversity. By the time it was accepted in principle, the key goals became: to establish a network of marine protected areas; to protect genetic resources; and to ensure equitable sharing of benefits gained from genetic resources.

- These goals are important. Marine protected areas are crucial to protect deep sea corals, seamounts, pelagic, and highly migratory species. These ecosystems are particularly vulnerable to damage from bottom-trawling and other destructive fishing practices. The hope is that these areas would be designated as off-limits to fishing and other activities that could harm marine biodiversity.

- Additionally, sustainable use has been a guiding principle of the treaty, with significant ramifications for the fishing industry and the promotion of biodiversity conservation. These features have made wildlife conservation organisations laud the treaty.
- **Drawbacks of the treaty**
- However, the treaty falls short of addressing some key threats that affect ocean biodiversity, notably fishing and industrial expansion, such as deep-seabed mining. The social inclusivity of the treaty also raises questions. Access- and benefit-sharing has always been a highly negotiated principle within any treaty, and this treaty requires fair and equitable sharing of genetic resources. However, it stops short of discussing the sharing of any other type of resource.
- Another key challenge that the treaty failed to address is to identify a suitable international enforcement agency that could monitor and enforce the regulations laid out by the treaty. Such an enforcement body would also require a financial commitment – another issue that has not been negotiated or included.
- Clearly, the new ‘High Seas Treaty’ is just the beginning of a long and tedious process of regulating various aspects of human use in international oceans. Despite these challenges, there is growing momentum behind the treaty.
- In 2020, a group of more than 170 environmental and human rights organisations issued a statement calling for the treaty to be finalised and adopted as soon as possible. If goodwill were currency, this treaty could be considered rich. Its actual impact will depend on how practicality and goodwill meet, and whether future negotiations will address some of the key shortcomings of this version of the treaty.

➤ **A Timeline | Law of the Sea Treaty**

1956

UNCLOS I: The United Nations held its first Conference on the Law of the Sea (UNCLOS I) at Geneva, Switzerland. Although UNCLOS I was considered a success, it left open the important issue of breadth of territorial waters. UNCLOS I resulted in four treaties concluded in 1958:

- (1) Convention on the Territorial Sea and Contiguous Zone, entry into force: 10 September 1964
- (2) Convention on the Continental Shelf, entry into force: 10 June 1964
- (3) Convention on the High Seas, entry into force: 30 September 1962
- (4) Convention on Fishing and Conservation of Living Resources of the High Seas, entry into force: 20 March 1966

1960

UNCLOS II: The United Nations held the second Conference on the Law of the Sea ("UNCLOS II"). However, the six-week Geneva conference did not result in any new agreements. Generally speaking, developing nations and third world countries participated only as clients, allies, or dependents of the United States or the Soviet Union, with no significant voice of their own.

1967

UNCLOS III: The issue of varying claims of territorial waters was raised in the UN by Arvid Pardo of Malta.

1973 - 1982

UNCLOS III: The Third United Nations Conference on the Law of the Sea convened in New York. In an attempt to reduce the possibility of groups of nation-states dominating the negotiations, the conference used a consensus process rather than majority vote. With more than 160 nations participating, the conference lasted until 1982.

16 November 1994

UNCLOS III: The resulting convention came into force, one year after the 60th state, Guyana, ratified the treaty.

The convention introduced a number of provisions. The most significant issues covered were setting limits, navigation, archipelagic status and transit regimes, exclusive economic zones (EEZs), continental shelf jurisdiction, deep seabed mining, the exploitation regime, protection of the marine environment, scientific research, and settlement of disputes. The convention set the limit of various areas, measured from a carefully defined baseline.

1982 - 1990

Part XI and the 1994 Agreement: The United States accepted all but Part XI as customary international law, while attempting to establish an alternative regime for exploitation of the minerals of the deep seabed. The Preparatory Commission was established to prepare for the eventual coming into force of the convention-recognized claims by applicants, sponsored by signatories of the convention. Overlaps between the two groups were resolved, but a decline in the demand for minerals from the seabed made the seabed regime significantly less relevant.

1990

Part XI and the 1994 Agreement: Consultations began between signatories and non-signatories (including the United States) over the possibility of modifying the convention to allow the industrialized countries to join the convention.

1994

Part XI and the 1994 Agreement: The resulting 1994 Agreement on Implementation was adopted as a binding international convention. It mandated that key articles, including those on limitation of seabed production and mandatory technology transfer, would not be applied, that the United States, if it became a member, would be guaranteed a seat on the Council of the International Seabed Authority, and finally, that voting would be done in groups, with each group able to block decisions on substantive matters. The 1994 Agreement also established a Finance Committee that would originate the financial decisions of the Authority, to which the largest donors would automatically be members and in which decisions would be made by consensus.

1 February 2011

Part XI and the 1994 Agreement: The Seabed Disputes Chamber of the International Tribunal for the Law of the Sea (ITLOS) issued an advisory opinion concerning the legal responsibilities and obligations of states parties to the convention with respect to the sponsorship of activities in the area in accordance with Part XI of the convention and the 1994 agreement.

2017

Biodiversity beyond national jurisdiction: The United Nations General Assembly (UNGA) voted to convene an intergovernmental conference (IGC) to consider establishing an international legally binding instrument (ILBI) on the conservation and sustainable use of biodiversity beyond national jurisdiction (BBNJ).

2018 - 2023

Biodiversity beyond national jurisdiction: The IGC convened a total of six sessions in 2018, 2019, 2022 and 2023 to negotiate the text for the BBNJ legal instrument. Progress was made in the four main elements: marine genetic resources (MGRs), benefit sharing using area-based management tools (ABMTs) including marine protected areas (MPAs), environmental impact assessments (EIAs) and capacity building and the transfer of marine technology (CB&TT).

August 2022

Biodiversity beyond national jurisdiction: The fifth round of talks in August 2022 failed to produce an agreement, due in part to significant disagreements over how to share benefits derived from marine genetic resources and digital sequence information.

4 March 2023

Biodiversity beyond national jurisdiction: Agreement on a text was reached, after the sixth round of talks at the UN in New York. The European Union pledged financial support for the process of ratification and implementation of the treaty.

PRELIMS

1. SIPRI Report

➤ **CONTEXT:** India remained the world's largest arms importer for the five-year period between 2018 and 2022 even though its arms imports dropped by 11% between 2013-2017 and 2018-2022, according to the Swedish think tank Stockholm International Peace Research Institute (SIPRI).

➤ **Findings:**

- Russia was the largest supplier of arms to India from 2013 to 2022, but its share of total imports fell from 64% to 45% while France is the second largest supplier.
- India specific:
 - As per latest SIPRI data, among the top 10 arms exporters for the period 2018 to 2022, India was the biggest arms export market to three countries — Russia, France and Israel — and the second largest export market to South Korea.
 - India was also the third largest market for South Africa, which was ranked 21 in the list of arms exporters.
 - For the same period, India remained the largest arms importer followed by Saudi Arabia.
 - Russia accounted for 45% of India's imports followed by France (29%) and the U.S. (11%).
 - Also, India was the third largest arms supplier to Myanmar after Russia and China accounting for 14% of its imports.
 - India's tensions with Pakistan and China largely drive its demand for arms imports.
 - With an 11% share of total global arms imports, India was the world's biggest importer of major arms in 2018 to 2022, a position it has held for the period 1993 to 2022.
 - It retained this position even though its arms imports dropped by 11% between 2013 to 2017 and 2018 to 2022.
 - The decrease can be attributed to several factors including India's slow and complex arms procurement process, efforts to diversify its arms suppliers, and attempts to replace imports with major arms that are designed and produced domestically.

➤ **Stockholm International Peace Research Institute:**

- SIPRI is an independent international institute dedicated to research into conflict, armaments, arms control and disarmament.
- Established in 1966, SIPRI provides data, analysis and recommendations, based on open sources, to policymakers, researchers, media and the interested public.

2. Exercise La Perouse – 2023

➤ **CONTEXT: The third edition of the multilateral exercise La Perouse is scheduled to be conducted in the Indian Ocean Region from 13 to 14 March 2023.**

- This edition will witness participation of personnel, ships and integral helicopters of Royal Australian Navy, French Navy, Indian Navy, Japanese Maritime Self Defence Force, Royal Navy and the United States Navy.
- Indigenously built guided missile frigate INS Sahyadri and fleet tanker INS Jyoti will be participating in this edition of the exercise.
- The biennial exercise La Perouse is conducted by the French Navy, and is aimed at enhancing maritime domain awareness and optimising maritime coordination amongst the participating navies in the Indo-Pacific Region.
- The two day exercise provides an opportunity for like minded navies to develop closer links in planning, coordination and information sharing for seamless maritime operations.
- The exercise will witness complex and advanced naval operations including surface warfare, anti-air warfare, air defence exercises, cross deck landings and tactical manoeuvres.
- Participation of Indian Navy in the exercise showcases the high levels of synergy, coordination and interoperability between the friendly navies, and their commitment to a rules-based international order in the Indo-Pacific region.

3. Water Heritage Sites

➤ **CONTEXT: The Ministry of Jal Shakti had constituted a Committee to identify 75 Water Heritage Structure (WHS) in reference to 75 years of India's Independence.**

- There is no provision under the Ancient Monuments and Archaeological Sites and Remains Act, 1958 to declare a site as a "Water Heritage Site" under Archaeological Survey of India (ASI).
- In this connection, "Jal-Itihas" portal showcasing the 75 WHS was launched.
- At present there is no central fund allocated/distributed for maintenance of these sites.

➤ **What are water heritage sites?**

- Water heritage usually involves with water environment that often faces inevitable changes due to demands of the later generations. Water heritage is found in spaces that are closely linked to traditions, rituals, and narratives.

➤ **Ancient Monuments and Archaeological Sites and Remains Act, 1958**

- The Ancient Monuments and Archaeological Sites and Remains Act or AMASR Act provides for:
 - ✓ the preservation of ancient and historical monuments and archaeological sites and remains of national importance,
 - ✓ for the regulation of archaeological excavations and
 - ✓ for the protection of sculptures, carvings and other like objects.
- The Archaeological Survey of India functions under the provisions of this act.

• **Provisions:**

- ✓ The AMASR Act of 1958 prohibits construction in a prohibited area of 100 metres around protected monuments.
- ✓ It does not permit construction in such prohibited areas even for public purposes, except under certain conditions.
- ✓ The Central government can extend the prohibited area beyond 100 meters.

• **Amendment:**

- ✓ The AMASR (Amendment) Bill was passed by the Lok Sabha in 2017.
- ✓ It allows the government to take up infrastructure projects within prohibited areas around protected monuments.
- ✓ It introduced a definition for 'public works', which includes construction of any infrastructure that is financed and carried out by Central government for public purposes.
- ✓ It allows the Centre to allow public works based on the recommendation of the National Monuments Authority.

ANSWER WRITING

Q. Virtual digital assets have potential for criminal misuse considering the speed and anonymity with which they can be traded worldwide. In this context discuss the threats posed by digital assets and regulatory and other responses needed to deal with it.

The finance act 2022 defines virtual digital assets (VDAs) as information, code, number or token not being Indian or foreign currency, generated by cryptographic means or otherwise. It is a digital representation of value that is exchanged with or without consideration. This definition includes cryptocurrencies and can also include a wide range of digital assets, as decided by the government from time to time. The government has also decided to bring VDAs under the Prevention of Money Laundering Act (PMLA) in order to widen the taxation and regulatory net of these assets.

Threats posed by the virtual digital assets:

- Used for criminal activities: Virtual assets are used for a wide range of illicit or criminal purposes by a diverse group of malicious actors. The three most prominent illicit use cases are.
 - ✓ Money laundering
 - ✓ Trade in illicit goods and services
 - ✓ Terrorism financing
- Non-face-to-face activity: Virtual assets related activities are conducted online and are not in the same physical location. This complicates the identification of the customer and increases the risk of forged or inaccurate identification information being provided.
- Threats posed by the decentralised nature of virtual assets: The virtual assets service providers can have a physical presence in one jurisdiction, be registered in another, place their server in yet another and provide services globally without the need of a central command. This complicates the prevention of illegal transactions.
- Potential for greater anonymity: In many cases (e.g., Bitcoin), transactions are visible online and traceable from one wallet to another. But linking a particular address or wallet to a specific individual is challenging. This challenge is further compounded by the availability of mechanisms designed specifically to hinder the traceability of flows.
- Used in cybercrimes: Virtual digital assets also pose greater cybersecurity risks. For example, in 2017, the WannaCry ransomware attack held thousands of computer systems hostage until the victims paid hackers a ransom in bitcoin.

Responses required to deal with the threats posed by virtual digital assets:

- Regulatory response: In the face of growing technological innovation in the financial sector, it is critical to strengthen the supporting regulatory frameworks that operate regardless of the nature of instrument.
- International cooperation: The technology behind the blockchain and virtual assets is complex and makes it difficult to determine their governing structure. A globally coordinated response can help in governing and regulating the VDAs.
 - ✓ G20 provides a suitable platform for developing consensus around the regulation for VDAs.
- Implementing Financial Action Task Force (FATF) Guidance for a Risk-Based Approach to Virtual Assets and Virtual Asset Service Providers (VASPs): It includes focusing on the following areas.
 - ✓ Clarification of the definitions of virtual assets and VASPs,
 - ✓ Guidance on the risks and the tools available to countries to address the money laundering and terrorist financing risks for peer-to-peer transactions,
- Developing financial literacy programmes: In order to make people aware of potential risks attached to the virtual digital assets, developing adequate financial literacy programmes should be considered.
- Continuous monitoring: The virtual space should be continuously monitored by national and international agencies in order to keep up with the evolving technology.

The virtual digital asset ecosystem has been growing rapidly in the last few years. While the technologies associated with VDAs have greater significance, they also pose threats to misuse. Therefore, a multi-stakeholder approach that involves the relevant national authorities, private sector, civil society and academia is key at all stages – from assessing risks and threats, to developing response measures, to conducting reviews and assessments on the impact of VDAs.

MCQs

1. With reference to the United Nations Convention on the Law of Sea, consider the following statements:
 1. A coastal state has the right to establish the breadth of its territorial sea up to a limit not exceeding 12 nautical miles, measured from baseline determined in accordance with the convention.
 2. Ships of all states, whether coastal or land-locked, enjoy the right of innocent passage through the territorial sea.
 3. The Exclusive Economic zone shall not extend beyond 200 nautical miles from the baseline from which the breadth of the territorial sea is measured.Which of the statements given above are correct?
a) 1 and 2 only b) 2 and 3 only c) 1 and 3 only **d) 1, 2 and 3**

2. Consider the following statements
 1. India remained the largest arms importer in last five years.
 2. Russia was the largest supplier of arms to India in last decade.
 Which of the above statement/s is/are correct?
 - a) 1 only
 - b) 2 only
 - c) **Both 1 and 2**
 - d) Neither 1 nor 2
3. With reference to Exercise La Perouse – 2023 consider the following
 1. The exercise La Perouse is conducted by the French Navy annually
 2. INS Sahyadri and fleet tanker INS Jyoti will be participating in this edition of the exercise
 Which of the above statement/s is/are not correct?
 - a) **1 only**
 - b) 2 only
 - c) Both 1 and 2
 - d) Neither 1 nor 2
4. Consider the following statements
 1. There is no provision under the Ancient Monuments and Archaeological Sites and Remains Act, 1958 to declare a site as a “Water Heritage Site” under Archaeological Survey of India (ASI).
 2. The Ancient Monuments and Archaeological Sites and Remains Act, 1958 provides for a substantive process for identifying a monument as a monument of national importance.
 Which of the above statement/s is/are correct?
 - a) 1 only
 - b) 2 only
 - c) **Both 1 and 2**
 - d) Neither 1 nor 2
5. ‘Mount Merapi’, a volcano which erupted recently is located in which of the following country?
 - a) Philippines
 - b) Italy
 - c) **Indonesia**
 - d) Japan
6. Bobbili Veena often mentioned in news, consider the following
 1. Bobbili Veena a large plucked string instrument is used in Odishi music.
 2. It has earned a GI tag for its unique design and high-quality craftsmanship.
 Which of the above statement/s is /are correct?
 - a) 1 only
 - b) **2 only**
 - c) Both 1 and 2
 - d) Neither 1 nor 2
7. Justice Verma committee recently seen in news is related to which of the following?
 - a) Identify heritage sites
 - b) **Welfare of Animals**
 - c) Agricultural Export
 - d) Delhi Pollution
8. Melanochelys trijuga is a species of often mentioned in news is related to which of the following?
 - a) **Turtle**
 - b) Hippopotamus
 - c) Frog
 - d) Bird
9. Consider the following statements:
 1. NAMASTE is a joint initiative of the MoSJE and the Ministry of Housing and Urban Affairs (MoHUA).
 2. NAMASTE aims to achieve zero fatalities in sanitation work in India
 Which of the above statements is/are correct?
 - a) 1 only
 - b) 2 only
 - c) **Both 1 and 2**
 - d) Neither 1 nor 2
10. Consider the following statements:
 1. Fluorescence microscopy studies how objects reemit light.
 2. Fluorophores are objects studied under a fluorescence microscope.
 Which of the above statements is/are not correct?
 - a) 1 only
 - b) **2 only**
 - c) Both 1 and 2
 - d) Neither 1 nor 2